

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

PABLO J. AGRIO,

Petitioner,

vs.

BEN CURRY, Warden,

Respondent.

No. C 07-04201 JW (PR)

ORDER DENYING CERTIFICATE
OF APPEALABILITY


On August 19, 2009, the Court denied this pro se petition for writ of habeas corpus, which challenged the denial of parole, on the merits and entered judgment in favor of respondent. Petitioner filed a notice of appeal and the matter was forwarded to the United States Court of Appeals for the Ninth Circuit.

On May 6, 2010, the Ninth Circuit remanded this case for the limited purpose of granting or denying a certificate of appealability. See Hayward v. Marshall, No. 06- 55392, 2010 WL 1664977, at *5 (9th Cir. Apr. 22, 2010) (en banc) (overruling those portions of White v. Lambert, 370 F.3d 1002, 1004 (9th Cir. 2004), and Rosas v. Nielsen, 428 F.3d 1229, 1231-32 (9th Cir. 2005) (per curiam), that relieved a prisoner from obtaining a certificate of appealability to review the denial of a habeas petition challenging an administrative decision denying parole).

1 “Where a district court has rejected the constitutional claims on the merits,
2 the showing required to satisfy § 2253(c) is straightforward: the petitioner must
3 demonstrate that reasonable jurists would find the district court’s assessment of the
4 constitutional claims debatable or wrong.” Slack v. McDaniel, 529 U.S. 473, 484
5 (2000). The Court denied the instant habeas petition after careful consideration of
6 the merits. The Court found no violation of petitioner’s federal constitutional rights
7 in the administrative decision denying parole. Petitioner has failed to demonstrate
8 that jurists of reason would find it debatable whether this Court was correct in its
9 ruling. Accordingly, a certificate of appealability is DENIED.

10 The clerk shall forward this order to the Ninth Circuit from which petitioner
11 may also seek a certificate of appealability. See United States v. Asrar, 116 F.3d
12 1268, 1270 (9th Cir. 1997).

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14 DATED: May 10, 2010


15 JAMES WARE
16 United States District Judge
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PABLO AGRIO,

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v.

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Case Number: CV07-04201 JW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 5/13/2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Pablo J. Agrio E-17284
California Men's Colony
PO Box 8101, #3350X
San Luis Obispo, CA 93409-8101

Dated: 5/13/2010

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk